

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 62 of 1998

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the concerned Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals? : NO

MOHANBHAI BHIMABHAI RATHOD

Versus

TRIKAMBHAI BHIMABHAI RATHOD

Appearance:

1. Civil Revision Application No. 62 of 1998
MR GAURANG H BHATT for Petitioner No. 1-4
M/S.VYAS ASSOCIATES for Respondent No. 1,4
NOTICE SERVED for Respondent No. 2-3
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CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 24/03/2004

ORAL JUDGEMENT

The petitioners herein are the original plaintiffs of Civil Suit No.17/1997, which is pending in

the Court of learned Civil Judge (J.D.) Wadhwan. The said suit is filed by the plaintiffs for declaration and injunction. It is the case of the plaintiffs that they are in possession of the suit property. In the said suit, an interim application for injunction was pressed into service at Exh.5. The trial Court allowed the said application submitted by the plaintiffs for interim injunction. By the said order, the trial Court ordered respondents No.2 to 4 not to obstruct the possession of the plaintiffs of the disputed plot. Against the said order, the respondents herein preferred an appeal before the District Court being Civil Misc.Appeal No.71/1997 by resorting to Order 43 of C.P.C. The appellate Court allowed the said appeal and set aside the order passed by the trial Court below Exh.5. Being aggrieved by the said order of the appellate Court, original plaintiffs have filed this revision application under Section 115 of C.P.C.

2) Considering the fact that this revision is filed against an interlocutory order, the same is not maintainable in view of the amendment in Section 115 of C.P.C. In that view of the matter, without considering the merits of the case, this revision application is rejected, as the same is not maintainable. Rule is discharged. No costs.

3) It will be open for the petitioners to challenge the impugned order of the appellate Court by filing a petition under Article 227 of the Constitution of India. To enable the petitioners to take appropriate remedy available to them, interim relief granted earlier by this Court is ordered to be extended upto 15th April, 2004.

(P.B.Majmudar, J.)
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